



Planning and Land Use Committee Report

For the meeting of October 2, 2014

Date: September 10, 2014 **From:** Mike Wilson, Senior Planner - Urban Design
Subject: 353 Tyee Road - Request to Maintain Occupancy of a Building during Development Permit Approval Process

Executive Summary

The purpose of this report is to present Council with information, analysis and recommendations regarding an application by Dockside Green Ltd. to waive a section of the Clean Hands Policy to maintain building occupancy for an existing building located at 353 Tyee Road. The existing building was established as a construction trailer and was later converted to an office building.

The City does not require Development Permits or Building Permits for construction trailers and it is expected that trailers be removed within six months of obtaining an Occupancy Permit for the building under construction. At some point in the past, the construction trailer was converted from a construction office to general office space. In 2014, the trailer was moved and a significant amount of exterior work was carried out without Development Permit or Building Permit approvals.

The proponent has now made an application for a Development Permit Application with Variances; however, in order to move forward the applicant must comply with Council's Clean Hands Policy (attached). If the Clean Hands Policy is applied in this case, the applicant would be required to complete the following, before the planning application "may be processed through to civic evaluation and approvals bodies":

- the owner must obtain a Building Permit to restore the property to legal condition
- the owner's solicitor must provide a restrictive covenant registered on title stating that the illegal occupancy is vacated, all illegal construction will be removed if the application is declined and the property will be made safe.

The applicant has agreed to register a covenant on title to remove the building if the application is refused; however, the applicant has requested to maintain occupancy of the building through the approval process. Staff recommend that Council allow the applicant to maintain building occupancy in this instance. Staff have no knowledge of any safety concerns within the building.

Recommendation

That Council waive the *Clean Hands Policy for Planning Approvals* requirement to vacate the building located at 353 Tyee Road.

Respectfully submitted,

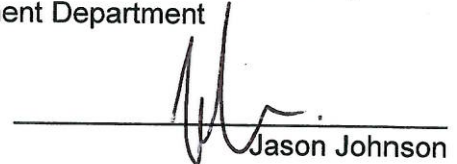


Mike Wilson
Senior Planner – Urban Design
Development Services Division



Deb Day, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:


Jason Johnson

Date: Sept. 22, 2014

MW:af

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1.0 Purpose

The purpose of this report is to present Council with information, analysis and recommendations regarding an application by Dockside Green Ltd. to waive a portion of the *Clean Hands Policy* for illegal construction and occupancy at 353 Tyee Road.

2.0 Background

2.1 Description of Proposal

The existing building was established as a construction trailer and was later converted to an office building. At some point in the past, the building was converted from a construction office to general office space. In 2014, the trailer was moved and significant exterior work was carried out without Development Permit or Building Permit approvals.



Proposed site office at 353 Tyee Road.

2.2 Legal Description

Remainder of Lot 8 District Lot 119, Esquimalt, VIP 53097 and Lot G, District Lot 119, Esquimalt, VIP 67690.

3.0 Issues

The only issue associated with this application is the request to waive the requirement to vacate the building in accordance with the *Clean Hands Policy for Planning Approvals*.

4.0 Analysis

4.1 Waive Requirement to Vacate Building

The proponent has made an application for a Development Permit Application with Variances; however, in order to move forward the applicant must comply with Council's *Clean Hands Policy* (attached). If the *Clean Hands Policy* is applied in this case, the applicant would be required to complete the following, before the planning application "may be processed through to civic evaluation and approvals bodies":

- the owner must obtain a Building Permit to restore the property to legal condition

- the owner's solicitor must provide a restrictive covenant registered on title stating that the illegal occupancy is vacated, all illegal construction will be removed if the application is declined and the property will be made safe.

The applicant has agreed to provide a covenant registered on title to remove the building if the application is refused; however, the applicant has requested to maintain occupancy of the building through the approval process. Staff recommend that Council waive the *Clean Hands Policy* in this instance in order for the applicant to move forward with a Development Permit with Variances Application and a remedial Building Permit.

Staff have no knowledge of any safety concerns within the building or on the site. Staff recommend that Council consider waiving the requirement to vacate the building in accordance with the *Clean Hands Policy*.

5.0 Resource Impacts

There are no resource impacts anticipated.

6.0 Conclusions

The building located at 353 Tyee Road was originally installed to facilitate the construction of Dockside Green Phases One and Two. The building was not removed from the site and was altered to create a permanent project office. The building does not have any City approvals with respect to Development Permits or Building Permits. Staff have no knowledge of any safety concerns within the building or on the site and therefore recommend that Council consider waiving the *Clean Hands Policy* requirement to vacate the building.

7.0 Recommendations

7.1 Staff Recommendation

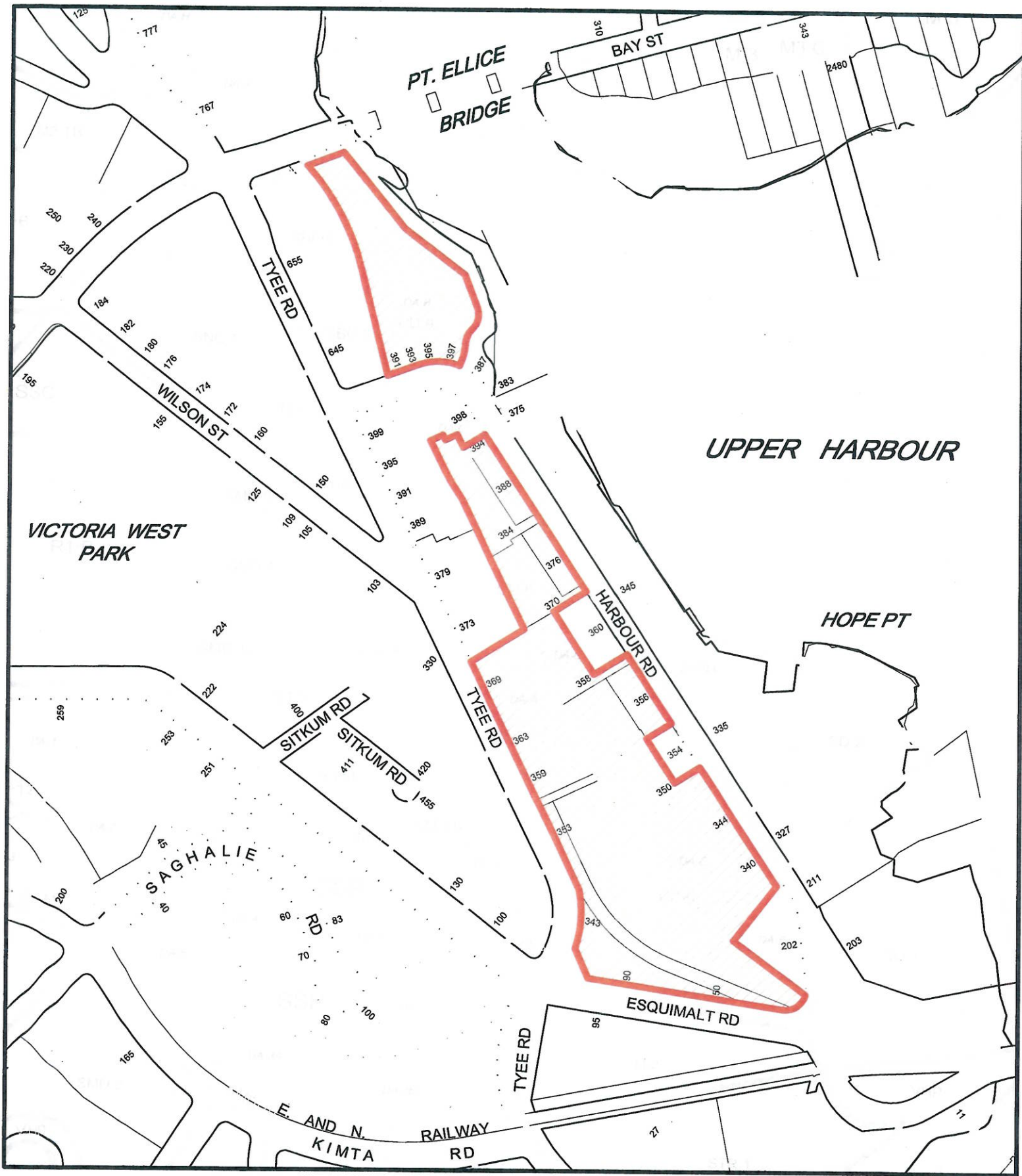
That Council waive the *Clean Hands Policy for Planning Approvals* requirement to vacate the building located at 353 Tyee Road.

7.2. Alternative Recommendation

That Council decline Dockside Green Ltd.'s request to waive the *Clean Hands Policy for Planning Approvals* requirement to vacate the building located at 353 Tyee Road.

8.0 List of Attachments

- Zoning map
- Aerial map
- Letter from the applicant dated September 2, 2014
- *Clean Hands Policy for Planning Approvals*.



253 Esquimalt Road
Development Permit #000386





253 Esquimalt Road
Development Permit #000386



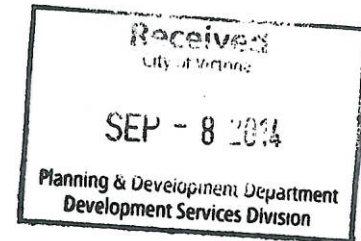
DOCKSIDE GREEN

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Victoria, British Columbia
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www.docksidegreen.com



September 2nd, 2014

City of Victoria
1 Centennial Square
Victoria, BC
V8W 1P6



Dear Mayor Fortin and Victoria City Council,

RE: Dockside Green Development Applications and City of Victoria Clean Hands Policy

Dockside Green Limited is engaged in process of reinvigorating the Dockside Green project and we have been engaging the community in a series of community conversations, design workshops and consultations. We have been impressed with the level of interest and the many great ideas that have come from this work. We are presently working to refine the updates to the project plan and are looking forward to presenting these as part of a Rezoning Application, which will be submitted to the City later this fall.

In addition to our upcoming Rezoning Application, Dockside Green has recently submitted, in August of this year, an application for a Development Permit for our refurbished temporary office trailer on Tyee Road.

The trailer was one of three that were originally placed on the site in 2006 as part of the early construction phases of Dockside Green and were continually used through subsequent phases of development over the years. During the slow down in the project the trailers provided Dockside a site facility for storage and operations space to continue upkeep of the undeveloped portions of lands. Given the commencement of the works to move the project forward in 2014, and in the spirit of sustainability, we recently recycled two of the trailers, reconfigured the fence line, and made some low cost aesthetic improvements to the remaining trailer to create a more welcoming space for residents and neighbors of the site. Further to those updates Staff informed us that the scope of those works have triggered a need for a Development Permit for the trailer.

Further to our Development Permit application for the trailer, Staff have informed Dockside Green that the City of Victoria has enacted its Clean Hands Policy. It is our understanding that this new policy is being applied to Dockside Green. Given the importance of the site trailer in the operations and works currently underway with our rezoning application, Dockside Green is seeking Councils approval to waive the portion of the Clean Hands Policy related to vacating the trailer while our Development Permit application is processed through the civic evaluation and approvals period. Our very humble, temporary office trailer provides us with a much



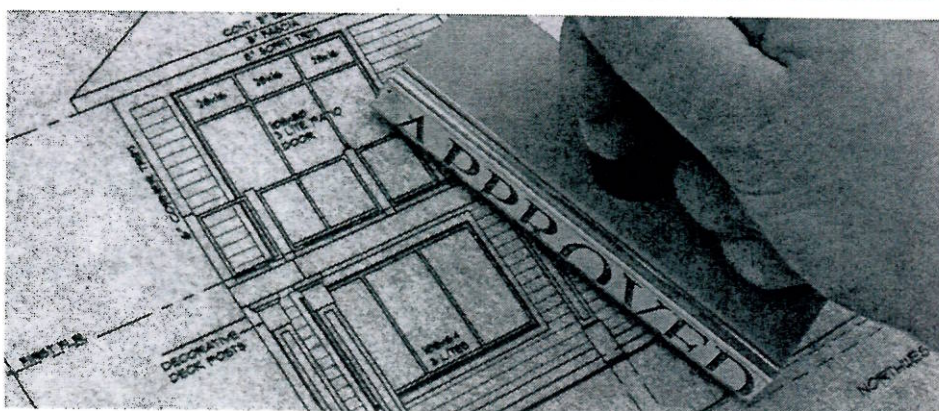
needed presence on the site and a location for connecting with residents, the neighbourhood and community at large.

It is our understanding that the purpose of the Clean Hands Policy is to ensure that unacceptable land uses and situations that pose a hazard to the public do not continue indefinitely while Staff and Council consider an application. Dockside Green feels that no such issues exist with our site trailer. The trailer is in good repair and poses no safety issues. It is worth noting there have been no previous concerns raised prior to 2014 regarding the trailer's location or use.

I thank Council for your consideration of this matter and we are excited to once again be moving forward with the Dockside Green project.

Sincerely,

Norman Shearing
President
Dockside Green Limited



Clean-hands Policy for Planning Approvals

When applying for planning approvals, all applicants must ensure that the building or structure in question conforms with previously approved plans.

The City of Victoria has a *Clean-hands Policy for Planning Approvals* to assist applicants with planning approvals where there is evidence of illegal construction or occupancy, and to outline the requirements for owners to come into compliance with current regulations.

The policy is as follows:

A. This relates to all applications involving rezoning, variance, and design or heritage approval in cases where enforcement action is pending.

B. All such applications will be required to be made by a registered architect or engineer (or other professionals as may be approved by the City).

C. Where illegal construction is in evidence, but not illegal occupancy, before the application may be processed through to civic evaluation and approvals bodies:

1. The owner must obtain a Building Permit to restore the property to legal condition, and
2. The owner's solicitor must provide a restrictive covenant registered on title that states:
 - All illegal construction work has ceased pending approval decision
 - All illegal construction will be removed if approval is refused

D. Where illegal occupancy is in evidence (without illegal construction), before the application may be processed through to civic evaluation and approvals bodies, the owner's solicitor must provide a restrictive covenant registered on title stating that the illegal occupancy is vacated (the case will also be referred to Legislative and Regulatory Services for enforcement follow-up).

E. Where illegal occupancy is in evidence (with illegal construction), before the application may be processed through to civic evaluation and approvals bodies:

1. The owner must obtain a Building Permit to restore the property to legal condition, and
2. The owner's solicitor must provide a restrictive covenant registered on title that states:
 - The illegal occupancy is vacated (the case will also be referred to Legislative and Regulatory Services for enforcement follow-up)
 - All illegal construction work has ceased pending approval decision (a section 57.3 notice may also be registered on the property title)
 - All illegal construction will be removed if approval is refused
 - The property must be made safe

FOR MORE INFORMATION:

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